

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

JAMES MCDONALD

PLAINTIFF

VS.

CAUSE NO. 2:11cv202-JMV

**MICHAEL J. ASTRUE
COMMISSIONER OF SOCIAL SECURITY**

DEFENDANT

FINAL JUDGMENT

Pursuant to a hearing held before the undersigned United States Magistrate Judge, the court has determined that this case should be remanded to the Commissioner of Social Security for additional proceedings. The court finds that the ALJ's determination that the claimant could stand and walk for six hours in an eight-hour workday is not supported by substantial evidence in the record. Specifically, the only medical opinion that supports such a finding is the 2009 Physical Residual Functional Capacity Assessment of the State Agency Physician, which was given without the benefit of postoperative medical records of the claimant's treating physicians. Moreover, the ALJ did not have the benefit of evidence of the claimant's 2011 cane prescription, which was submitted at the Appeals Council level. Therefore, this case shall be remanded to the Commissioner with instructions to refer the matter to the ALJ for consideration of the entire record and for conducting any further necessary proceeding not inconsistent with this order.

The parties, having consented to entry of final judgment by the United States Magistrate Judge under the provisions of 28 U.S.C. § 636(c), with any appeal to the Court of Appeals for the Fifth Circuit,

IT IS, THEREFORE, ORDERED AND ADJUDGED that this case is **REVERSED**
AND REMANDED to the Commissioner for further proceedings as set out above.

THIS 7th day of August, 2012.

/s/ Jane M. Virden
U. S. MAGISTRATE JUDGE